

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

DOCKET

04-SIT-2

DATE FEB 28 2007

RECD. MAR 01 2007

In the Matter of:)	Docket No. 04-SIT-2
)	ORDER NO. 07-0228-7
RULEMAKINGS TO IMPLEMENT)	Order Adopting Amendments
RULES OF PRACTICE AND)	To The Power Plant Siting
PROCEDURE AND SITE)	Regulations
CERTIFICATION.)	
_____)	

I. Initiation of Formal Rulemaking Procedure

On December 29, 2006, publication of the Notice of Proposed Action (NOPA) in the California Administrative Notice Register began the formal rulemaking for the adoption of amendments to the Energy Commission's Rules of Practice and Procedure and Power Plant Site Certification Regulations. (*See*, Cal. Code Regs., tit 20, §§ 1001 et seq.) Publication of the Notice began a 45-day public comment period, which ended on February 12, 2007. A Notice of Proposed Change (15-Day Language) was sent to interested-parties on February 13, 2007, to notify of substantial and sufficiently related changes being proposed that are within the scope of the published NOPA as originally proposed.

II. Energy Commission Findings

Based on the entire rulemaking record, including public comment, the Energy Commission makes the following findings:

- A. The Energy Commission has determined that no alternative, including the no-action alternative, would be more effective in carrying out the purpose for which this action is proposed or would be as effective as and less burdensome to affected private persons than the regulations proposed for adoption.** The text of the proposed amendments is the same language that was provided to the Office of Administrative Law and the public with the Notice of Proposed Action with the addition of the various substantial and sufficiently related changes filed in the Notice of Proposed Change (15-Day Language).
- B. The proposed amendments will not impose a mandate on local agencies or school districts.** The proposed amendments to the Rules of Practice and Procedure & Power Plant Site Certification Regulations address the various data information sections that require updating because specific statutes have been repealed and/or enacted. In addition, amendments have been proposed that would provide consistency with the Administrative Procedures Act, and help clarify the process for Commission staff,

interested parties and the public. The amendments do not impose any affirmative mandate on local agencies or school districts.

- C. There will be no impact on small business.** The Energy Commission filed an Economic and Fiscal Impact Statement (STD 399) with the California Department of Finance that was approved on September 26, 2006, showing no impact on small businesses.
- D. There will be no impact on California jobs.** The proposed amendments to the siting regulations would have no effect on the creation or elimination of California jobs and no effect on the creation of new business or the elimination or expansion of existing business within California. The number of power plants applied for, licensed, and then built would not be foreseeably changed by the proposed regulations. The proposed regulations would require no new reports.
- E. There will be no potential for adverse economic impact on California business enterprises and individuals.** The Commission filed an Economic and Fiscal Impact Statement (STD 399) with the Department of Finance that was approved on September 26, 2006, showing no adverse impacts on businesses or individuals.
- F. There will be no impact on housing costs.** The proposed amendments to the siting regulations will have no effect on housing costs.
- G. The California Environmental Quality Act:** The proposed amendments will not result in a direct, or reasonably foreseeable indirect, significant adverse effect on the environment. A Notice of Exemption based on Title 14, California Code of Regulations, section 15061(b)(3), is hereby approved to be filed with the Office of Planning and Research as soon as practicable with the approval of the amendments.

III. Authority and Reference

The Commission is authorized to adopt regulations for power plant site certification pursuant to Public Resources Code sections 25213, 25218(e), 25539, and 25541.5. The adopted regulations would implement, interpret, and make specific various sections of the Warren-Alquist Act (Public Resources Code section 25000 et seq.), Administrative Procedures Act (Government Code section 11400 et seq.), and sections of the California Environmental Quality Act (Public Resources Code section 21000 et seq.).

IV. Adoption of Regulations

On January 17, 2007, the Siting Committee of the Commission held a public hearing to receive comments on the proposed amendments. On February 28, 2007, the Commission held a public hearing to receive comments on the proposed amendments and to consider their adoption. After considering all comments received and the staff's responses, the Commission voted unanimously to approve the amendments.

The Commission hereby adopts the amendments, which are attached, and authorizes the Executive Director to prepare the final documents to complete the rulemaking record for submittal to the Office of Administrative Law and to file a Notice of Decision and a Notice of Exemption with the Office of Planning and Research. The Commission authorizes the Executive Director to make corrections and nonsubstantive changes as may be requested by the Office of Administrative Law for its approval.

Dated: February 28, 2007

CALIFORNIA STATE ENERGY
RESOURCES CONSERVATION AND
DEVELOPMENT COMMISSION

JACKALYNE PFANNENSTIEL
Chairman